

BEFORE THE REAL ESTATE COMMISSION

NOV 10 2015

STATE OF NEVADA

REAL ESTATE COMMISSION  
BY *Robert A. H. H.*

JOSEPH R. DECKER, Administrator,  
REAL ESTATE DIVISION, DEPARTMENT  
OF BUSINESS & INDUSTRY,  
STATE OF NEVADA,

Case No. 2015-2200

Petitioner,

vs.

**COMPLAINT AND NOTICE OF HEARING**

MATTHEW DERCOLE,

Respondent.

The REAL ESTATE DIVISION OF THE DEPARTMENT OF BUSINESS AND INDUSTRY OF THE STATE OF NEVADA ("Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Keith E. Kizer, Deputy Attorney General, hereby notifies RESPONDENT MATTHEW DERCOLE ("RESPONDENT") of an administrative hearing before the STATE OF NEVADA REAL ESTATE COMMISSION ("Commission") which hearing will be held pursuant to Chapters 233B and Chapter 645 of the Nevada Revised Statutes ("NRS") and Chapter 645 of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if the RESPONDENT should be subject to an administrative penalty as set forth in NRS 645.633 and/or NRS 645.630 and/or NRS 622.400, and the discipline to be imposed, if violations of law are proven.

**JURISDICTION**

RESPONDENT was at all relevant times mentioned in this Complaint licensed as a Salesperson by the Division under license number S.0062613 and is therefore subject to the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645.

**FACTUAL ALLEGATIONS**

1. RESPONDENT, at the relevant times mentioned in this Complaint, has been licensed as a Salesperson, license number S.0062613 since July 27, 2004, and is currently in active status.

1           2.     At all times relevant to the Complaint, RESPONDENT was associated with  
2 broker Deborah Emley ("Emley") at Prominent Realty Group LLC.

3           3.     At all times relevant to the Complaint, Paul Busscher ("Busscher") and Edward  
4 Duarte ("Duarte") owned the real property at 5683 Titanium Avenue, Las Vegas, Nevada (the  
5 "Property").

6           4.     The Property was not occupied on or about July 22, 2015, but was looked after  
7 by a caretaker.

8           5.     On or about July 22, 2015, RESPONDENT used his real estate agent passcode  
9 to assess the Property's lockbox and enter the Property.

10          6.     Soon thereafter, a woman arrived at the Property to meet with RESPONDENT.

11          7.     Soon thereafter, the woman performed oral sex on RESPONDENT.

12          8.     RESPONDENT never obtained authorization from Busscher and Duarte, or their  
13 agent, to enter the Property for a non-real estate transaction.

14          9.     RESPONDENT never obtained authorization from Busscher and Duarte, or their  
15 agent, to engage in sexual activity at the Property.

16          10.    RESPONDENT's sexual activity was caught on the Property's closed-circuit  
17 television ("CCTV").

18          11.    RESPONDENT initially denied to the Property caretaker that RESONDENT had  
19 engaged in sexual activity at the Property until he was informed of the CCTV footage.

20          12.    RESPONDENT offered Busscher and Duarte \$1,000 if they declined to file a  
21 complaint against RESPONDENT with the Division.

22          13.    On or about July 30, 2015, Busscher and Duarte filed a Statement of Fact with  
23 the Division complaining about RESPONDENT's conduct.

24          14.    On or about August 3, 2015, Emley filed a Statement of Fact with the Division  
25 complaining about RESPONDENT's conduct.

26          15.    On or about September 1, 2015, RESPONDENT provided an affidavit to the  
27 Division in which he admitted to entering the Property and having sexual activity therein  
28 without authorization.

**VIOLATIONS**

RESPONDENT has committed the following violation of law:

16. RESPONDENT violated NRS 645.633(1)(h) and/or (i) by entering the Property for an unauthorized purpose unrelated to a real estate transaction.

17. RESPONDENT violated NRS 645.633(1)(i) by engaging in sexual activity at the Property without authorization.

**DISCIPLINE AUTHORIZED**

18. Pursuant to NRS 645.630 and NRS 645.633, the Commission is empowered to impose an administrative fine of up to \$10,000 per violation against RESPONDENT and further to suspend, revoke or place conditions on the license of RESPONDENT.

19. Additionally, under NRS Chapter 622, the Commission is authorized to impose costs of the proceeding upon RESPONDENT, including investigative costs and attorney's fees, if the Commission otherwise imposes discipline on RESPONDENT.

20. Therefore, the Division requests that the Commission take such disciplinary action as it deems appropriate under the circumstances.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE, that a disciplinary hearing has been set to consider the Administrative Complaint against the above-named Respondent in accordance with Chapters 233B and 645 of the Nevada Revised Statutes and Chapter 645 of the Nevada Administrative Code.

THE HEARING WILL TAKE PLACE on December 16, 2015 commencing at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, and each day thereafter commencing at 9:00 a.m. through December 17, 2015, or earlier if the business of the Commission is concluded. The Commission meeting will be held on December 16, 2015, at the Nevada Department of Employment Training and Rehabilitation, 2800 East St. Louis Avenue, Conference Room A-C, Las Vegas, NV 89104. The meeting will continue on December 17, 2015, should business not be

1 concluded, starting at 9:00 a.m. at the Henderson City Hall, Council Chambers, 240  
2 South Water Street, Henderson, Nevada 89015.

3 **STACKED CALENDAR:** Your hearing is one of several hearings scheduled at the  
4 same time as part of a regular meeting of the Commission that is expected to last from  
5 December 16 through December 17, 2015, or earlier if the business of the Commission  
6 is concluded. Thus, your hearing may be continued until later in the day or from day to  
7 day. It is your responsibility to be present when your case is called. If you are not  
8 present when your hearing is called, a default may be entered against you and the  
9 Commission may decide the case as if all allegations in the complaint were true. If you  
10 have any questions please call Rebecca Hardin, Commission Coordinator (702) 486-  
11 4074.

12 **YOUR RIGHTS AT THE HEARING:** except as mentioned below, the hearing is an  
13 open meeting under Nevada's open meeting law, and may be attended by the public. After  
14 the evidence and arguments, the commission may conduct a closed meeting to discuss your  
15 alleged misconduct or professional competence. A verbatim record will be made by a certified  
16 court reporter. You are entitled to a copy of the transcript of the open and closed portions of  
17 the meeting, although you must pay for the transcription.

18 As the Respondent, you are specifically informed that you have the right to appear and  
19 be heard in your defense, either personally or through your counsel of choice. At the hearing,  
20 the Division has the burden of proving the allegations in the complaint and will call witnesses  
21 and present evidence against you. You have the right to respond and to present relevant  
22 evidence and argument on all issues involved. You have the right to call and examine  
23 witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant  
24 to the issues involved.

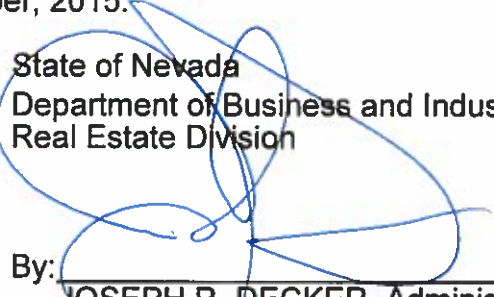
25 You have the right to request that the Commission issue subpoenas to compel  
26 witnesses to testify and/or evidence to be offered on your behalf. In making the request, you  
27 may be required to demonstrate the relevance of the witness' testimony and/or evidence.  
28

1 Other important rights you have are listed in NRS 645.680 through 645.990, NRS Chapter  
2 233B, and NAC 645.810 through 645.875.


3 The purpose of the hearing is to determine if the Respondent has violated NRS 645  
4 and/or NAC 645 and if the allegations contained herein are substantially proven by the  
5 evidence presented and to further determine what administrative penalty is to be assessed  
6 against the Respondent, if any, pursuant to NRS 645.633 and/or NRS 645.630.

7 DATED this 10<sup>th</sup> day of November, 2015.

8 State of Nevada  
9 Department of Business and Industry  
10 Real Estate Division

11 By:   
12 JOSEPH R. DECKER, Administrator  
13 2501 East Sahara Avenue  
14 Las Vegas, Nevada 89104-4137  
15 (702) 486-4033

16 ADAM PAUL LAXALT  
17 Attorney General

18 By:   
19 KEITH E. KIZER  
20 Deputy Attorney General  
21 555 East Washington Avenue, Suite 3900  
22 Las Vegas, Nevada 89101  
23 (702) 486-3326  
24 Attorneys for Real Estate Division  
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26  
27  
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